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Attorneys for Robert Marc Weinberg

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

JOSEPH DLR GONZALES,	)	CIVIL CASE NO. 07-0026
	)	
Plaintiff,	)	
	)	
v.	)	<b>ANSWER TO FIRST</b>
	)	<b>AMENDED COMPLAINT</b>
ROBERT MARC WEINBERG,	)	<b>AND DEMAND FOR JURY</b>
	)	<b>TRIAL</b>
Defendant.	)	
_____	)	

**ANSWER**

COMES NOW **ROBERT MARC WEINBERG** (“Weinberg”) who answers  
the Complaint of **JOSEPH DLR GONZALES** (“Plaintiff” or “Gonzales”), as follows:

1. As to paragraph 1 of the Complaint, Weinberg admits only that the Court has diversity jurisdiction; Weinberg denies the remaining allegations of said paragraph 1.

2. Weinberg admits the allegations contained in paragraphs 3 and 5 of the Complaint.

3. Weinberg denies the allegations contained in paragraphs 9, 12, 13 and 14 of the Complaint, generally and specifically.

4. With respect to paragraphs 2, 4, 6, 8 and 10 of the Complaint, Weinberg is without information sufficient to form a belief respecting these allegations and therefore denies them, generally and specifically.

5. As to paragraph 7 of the Complaint, Weinberg admits only that immediately prior to the accident, he was in the process of lighting a cigarette. Weinberg denies the remaining allegations of said paragraph 7.

6. Weinberg expressly denies each and every allegation of each and every paragraph of the Complaint which he has not expressly admitted.

7. Weinberg expressly denies that Plaintiff is entitled to any relief against him, in any amount, for any reason.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a claim for which relief can be granted.

2. The claims of Plaintiff are barred or must be reduced based upon the doctrine of comparative negligence.

3. Plaintiff's claims are barred or must be reduced based upon the failure of Plaintiff to mitigate damages.

4. If Plaintiff sustained any of the injuries or damages alleged in the Complaint, such injuries or damages were caused solely by the conduct of the Plaintiff or others; and not by any act or omission on the part of Weinberg.

5. The Complaint fails to state a claim for property damage; and Plaintiff lacks standing to assert any such claim as he has no ownership interest in the subject vehicle.

6. Plaintiff's Complaint fails to state a claim for punitive damages. In particular, but without limitation, Plaintiff fails to plead and cannot establish that mere negligence, even if qualified as "gross" or "reckless," justifies such an award.


**PRAYER FOR RELIEF**

WHEREFORE, Weinberg prays for judgment as follows:

1. That this Court enter judgment in favor of Weinberg and against Plaintiff on his Complaint;
2. That this Court award Weinberg costs of suit; and
3. That the Court award such other and further relief as the Court deems just and proper, whether prayed for or not.

Dated this 28th day of September, 2007.

**MAIR, MAIR, SPADE & THOMPSON**  
A Professional Corporation  
Attorneys for Robert Marc Weinberg

By   
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RANDALL TODD THOMPSON  
CNMI Bar No. F0158